



NPCA
FACSIMILE TRANSMISSION

Date: 1/21/05

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Location: SUPERVISOR, PLASTIC RECYCLING TECH. SECTION
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Remarks: _____

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January 21, 2005

Michael Leanon
Supervisor, Plastic Recycling Technologies Section
California Integrated Waste Management Board
1001 I Street, P.O. Box 4025
Sacramento, CA 95812

Dear Mr. Leanon:

The National Paint and Coatings Association (NPCA) appreciates the opportunity to review and comment on the December 17, 2004 "Comprehensive Film Plastic Diversion and Management Action Plan and Plastic Trash Bag Program -- Report to the Legislature" (hereinafter Report). NPCA submitted comments on the initial version of this report and we have additional comments on this final report.

The Report to the Legislature recommends that legislation should be adopted to implement the comprehensive film plastics diversion and management plan which includes the following:

- Negotiation and execution of an MOU with the film plastic industry stakeholders to establish diversion goals and targets, increase recycling and other activities;
- Establishment of a mil fee on film plastic products to be assessed if the MOU is not finalized or the goals and targets are not met; and
- Suspension of enforcement of the plastic trash bag law and eventual repeal of this law.

NPCA Recommendations:

More Time Is Necessary To Achieve An Appropriate MOU

As indicated above, the Board recommends that negotiation and execution of an MOU with the film plastics industry stakeholders is an essential element of comprehensive action plan. This negotiation and execution process is



scheduled to be completed by December 31, 2006. If the activity begins in earnest in mid-2005, as indicated in the Report, there is roughly about 18 months for the stakeholders in the film plastics industry to negotiate the contents of the MOU. This is not enough time.

A similar effort in the paint industry has been ongoing for several years now. Our experience with this activity indicates that a significant amount of time is required to identify all of the stakeholders, identify the issues and address potential solutions to each of the issues. Just the process of collecting the relevant stakeholders and identifying the issues will consume at least 24 months. Thereafter, meaningful discussions of potential solutions will require at least an additional 18 to 24 months of time. Keep in mind that stakeholder groups must collaborate with their own constituencies when working towards the formulation of potential solutions.

An MOU has yet to be signed in the paint industry effort, even after several years of negotiations. In our industry, identification of the stakeholders was a fairly easy process. In the plastic film industry, however, it will be much more difficult to identify the stakeholder community. Consequently, it is likely that even more time will be necessary. Therefore, NPCA recommends that the CIWMB increase the amount of time necessary to discuss and negotiate an MOU to at least 36 months.

A Mil Fee Should Not Be Automatically Triggered

The Board also recommends that legislation be adopted to implement a mil fee on film plastic products if the recycling and diversion goals are not met. NPCA objects to the automatic triggering of a mil fee. A mil fee should not be an element of the legislation, acting as a hammer on industry if the numbers don't quit add up. While these preceding discussions and negotiations should result in a clearer picture of the plastics film industry and the potential for reprocessing and recycling markets, it is possible that implementation of an MOU that establishes targets and goals will result in completely different market behavior. An automatic triggering of a mil fee is a "rush to judgment" and should be avoided.

The stakeholder groups should be given the opportunity to regroup and reassess the results of the MOU's targets and goals. The discussions leading up to the MOU must remain focused on achieving real solutions and these discussions will be tainted by the possibility of assessment of a mil fee if the fee is automatically triggered. The goal of the MOU should be to achieve these results without having to enact such a fee, not the inevitability of a fee. Consequently, NPCA strongly recommends that the mil fee be eliminated from the legislative package so that the MOU process is given ample time and opportunity to be successful.

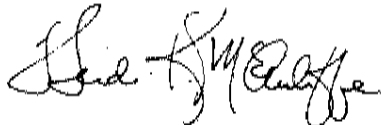
**The Board Must Recognize that the Alternatives to Stretch Wrap are
Environmentally Costly**

Clearly, the focus of this activity is to devise a more comprehensive approach to plastic film recycling and diversion efforts. However, some thought should be given to the alternatives to plastic film or stretch wrap, as it is used in our industry. As indicated in our earlier comments, there are several uses of plastic stretch wrap in the paint and coatings industry. Stretch wrap is an acceptable "overpack", used to provide protection or convenience in handling a package or to consolidate two or more packages. In this instance, shippers of hazardous materials can consolidate multiple units of product on a pallet or tray and secure them together with stretch wrap. This method of unitizing product or boxes on a pallet serves as a substitute for a strong outer packaging. In the absence of stretch wrap or if stretch wrap becomes too expensive to use, fibreboard boxes would most likely be the packaging of choice. Use of these boxes would create more post-consumer waste than stretch wrap and because it is bigger and heavier, it will consume more fuel during its transportation than if stretch wrap was used.

In addition, serious consideration must be given to exempting stretch wrap that is used as an overpack or outer packaging for goods that are hazardous materials. Clarification of this issue from the Department of Transportation is welcomed and should help the Board focus its efforts with regard to those goods that are hazardous materials. As noted in our earlier comments, this exemption is recognized in the Rigid Plastic Packaging Container law.

Thank you for the opportunity to discuss this issue further. I look forward to working with the CIWMB staff on this issue and any other matter that impacts the paint, coatings and adhesives industry. If you have any questions, do not hesitate to contact me directly.

Best regards,



Heidi K. McAuliffe
Counsel, Government Affairs